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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.21569 of 2022

and

W.M.P.Nos.20588 & 20590 of 2022

SAS Hydel Projects Private Limited,  
Rep.by its Company Secretary,  
New No.25, Old No.10,  
Sir Madhavan Nair Road,  
Mahalingapuram,  
Nungambakkam,  
Chennai - 600 034.

.. Petitioner

Vs.

1.The Banking Ombudsman,  
C/o Reserve Bank of India,  
Fort Glacis,  
Chennai – 600 001.

2.Commercial and Institutional Credit Branch,  
Indian Overseas Bank,  
Auras Corporate Centre,  
Post Bag No.351,  
98-A, Dr.Radhakrishnan Salai,  
Mylapore, Chennai – 600 004.

.. Respondents



**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1<sup>st</sup> respondent in Complaint Number : N202122006026742/2021/22 and quash its order dated 24.03.2022 and direct the 1<sup>st</sup> respondent to adjudicate the Complaint Number : N202122006026742/2021/22 in accordance with law.

For Petitioner .. Mr.P.Raghunathan

For R1 .. Mr.C.Mohan

For R2 .. Mr.M.Siddhi

### **ORDER**

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records of the 1<sup>st</sup> respondents / Banking Ombudsman c/o Reserve Bank of India, Chennai, in Complaint No.N202122006026742/2021/22 and interfere with the same and set aside the order dated 24.03.2022. A further direction is sought against the 1<sup>st</sup> respondent to adjudicate the said complaint in accordance with law.



2.The issue is to seek a judicial review of an order passed by the 1<sup>st</sup> respondent. It is needless to point out that the 1<sup>st</sup> respondent discharges its duty as a quasi judicial authority. Any quasi judicial authority should examine the nature of the complaint given; should examine whether the complaint is maintainable; should examine whether the authority has jurisdiction to examine the averments made in the complaint and thereafter, should get the responses of all those who are mentioned in the said complaint and then give reasons for either adjudicating in favour of the complainant or rejecting the complaint.

3.A statutory duty is imposed on a quasi judicial authority to give reasons for its order.

4.A perusal of the order now impugned, reveals a very startling picture. There are two orders. The first order is dated 16.03.2022. There is yet another order dated 24.03.2022. The first order, passed by the Centralized Receipt and Processing Centre is also in relation to the petitioner and it was stated that the complaint had been closed under Clause 16(2)(a) of the Reserve Bank Integrated Ombudsman Scheme 2021. The



said clause states that “in the opinion of the Banking Ombudsman there was no deficiency of service”. When the Banking Ombudsman is to give an opinion then that opinion must be put in words. The Banking Ombudsman should express that opinion. It cannot hide in its thoughts. The opinion must be stated and it must be explained why such an opinion had been reached. These are aspects which form the heart of any order.

5.The second order dated 24.03.2022, relies on an another clause. According to that particular clause, the complaint is not maintainable under Clause 16(1)(a) read with Clause 16(2)(b)(ii) of the Reserve Bank Integrated Ombudsman Scheme 2021. There is no reference to the earlier rejection under Clause 16(2)(a) and conversely, there was also no reference to Clause 16(1)(a) and Clause 10(2)(b)(ii) in the first order. Clause 16(1)(a) states that the complaint is not maintainable. There is no reason given as to why the complaint is not maintainable. It is not stated as to what complaints could be termed as maintainable and why this particular complaint does not fall under that particular category. No reasons are given. The entire order is indecipherable. Even the authority who signed the order may not understand what he meant.



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6. The order referred to Clause 10(2)(b)(ii). According to that provision the complaint is pending before / dealt with / settled by Ombudsman. It can be either closed or it could be pending or it could have been dealt with or it could have been settled. They cannot all co-exist at the same time. The entire order suffers for lack of reasons given.

7. The learned counsel for the petitioner placed reliance on a judgment of the Hon'ble Supreme Court reported in **2010 9 SCC 496, *Kranti Associates Private Limited and Another Vs. Masood Ahmed Khan and others***, wherein it had been held as follows:

*“47. Summarising the above discussion, this Court holds:*

*(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*

*(b) A quasi-judicial authority must record reasons in support of its conclusions.*



*(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*

*(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*

*(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*

*(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*

*(g) Reasons facilitate the process of judicial review by superior courts.*

*(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.*

*(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been*



*objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*

*(j) Insistence on reason is a requirement for both judicial accountability and transparency.*

*(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*

*(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.*

*(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)*

*(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,*



*“adequate and intelligent reasons must be given for judicial decisions”.*

*(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process.”*

8.The judgment must be instructive to the respondents.

9.A direction is given to the 1<sup>st</sup> respondent to revisit the complaint given by the petitioner. The order under question is set aside and a direction is given to the 1<sup>st</sup> respondent to re-adjudicate the Complaint No.N202122006026742/2021-22 in accordance with procedure as established by law. The said exercise may be commenced and completed within a period of eight weeks from the date of receipt of a copy of this order.



10. With the above observations, this Writ Petition stands allowed. No

costs. Consequently, connected Miscellaneous Petitions are closed.

08.02.2023

Index: Yes/No

Internet: Yes/No

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**C.V.KARTHIKEYAN,J.**

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